

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JOHN D. HORTON, Jerry Turrell,       )  
Deceased as of February 21st, 2019    )  
located at Pecan Cemetery Lawton,     )  
Oklahoma by his first cousin and next   )  
of kin,                                        )

Plaintiff,                                        )

v.    )

Case No. CIV-22-00452-JD

DEPARTMENT OF VETERANS                )  
AFFAIRS; FEDERAL PERSONNEL            )  
RECORDS CENTER; and NATIONAL         )  
GUARD BUREAU,                                )

Defendants.                                        )

**ORDER**

Before the Court is Plaintiff John D. Horton’s Motion to Strike and for Sanctions Against Improper Intervenor Billy Horton (“Motion”) [Doc. No. 10], filed under Federal Rule of Civil Procedure 12(f). Mr. Horton seeks to strike letters filed with the Court by non-party, Billy Horton, and asserts that “Billy [is trying] to improperly intervene in this matter . . . when Billy Horton is neither a party nor a witness in this case.” [Doc. No. 10 at 1]. For the reasons stated below, the Court denies Mr. Horton’s requested relief under Federal Rule of Civil Procedure 12(f) and also orders his Motion stricken for containing immaterial, impertinent, or scandalous matter.

Rule 12(f) of the Federal Rules of Civil Procedure provides:

(f) **Motion to Strike.** The court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.

The court may act:

(1) on its own; or

(2) on motion made by a party either before responding to the pleading or, if a response is not allowed, within 21 days after being served with the pleading.

Under Rule 12(f), only material contained in a “pleading” may be the subject of a motion to strike. The Federal Rules define “pleadings” in Rule 7(a), and a letter filed by a non-party is not a pleading under the rule. *See* Fed. R. Civ. P. 7(a). Thus, Mr. Horton’s Motion is an improper use of Rule 12(f), and the Court denies the requested relief.<sup>1</sup>

Regardless, the Court orders the Motion [Doc. No. 10] stricken for containing immaterial, impertinent, or scandalous matter that detracts from the dignity of the courts and is unrelated to the allegations in this action. [*See* Doc. No. 1]. The Court cautions Plaintiff John D. Horton that any future inappropriate filing may result in sanctions, including but not limited to dismissal of this action under Federal Rule of Civil Procedure 41(b), which may operate as a dismissal with prejudice to some or all of his claims. *See* Fed. R. Civ. P. 16(f); Fed. R. Civ. P. 41(b).

IT IS SO ORDERED this 8th day of August 2022.



JODI W. DISHMAN  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> The Court notes that Billy Horton’s non-party letters have been appropriately addressed by separate Order. [*See* Doc. No. 12].